

# HUDSON RIVER PCBs SITE

## ISSUE SUMMARY:

Under CERCLA, EPA is required to review the effectiveness of most Superfund remedies every five years. A draft second Five-Year Review (FYR) for the Upper Hudson was issued for public comment in June 2017. The dredging work in the Upper Hudson (the 40-mile stretch upstream of Troy) was completed two years prior, in 2015. The FYR evaluated extensive sediment, water quality, and fish tissue data collected through December 2016. EPA also worked collaboratively with the New York State Department of Environmental Conservation (NYSDEC) in reviewing the data from approximately 1,200 additional sediment samples taken by the state in 2017 from the Upper Hudson River. After careful consideration of comments provided by the public and key state and local stakeholders, EPA finalized the FYR in April 2019. In the final FYR, EPA deferred making a determination about the protectiveness of the remedy in the Upper Hudson River until more years of Hudson River fish tissue data are gathered. Specifically, EPA determined that eight or more years of post-dredging fish data are necessary to assess a trend in fish tissue concentrations.

In April 2019 EPA also issued a Certification of Completion of Remedial Action for the Upper Hudson dredging response, confirming that the dredging, capping, habitat restoration, and reconstruction/decontamination of the sediment processing facility was conducted properly in accordance with a judicial consent decree between EPA and GE. This is the second certificate in a series of three provided for in the consent decree – the first was issued in 2012 and the third is not expected to be available to GE for more than five decades.

A number of federal and state elected officials, officials from the NYSDEC, and other external stakeholders have strongly questioned the adequacy of the cleanup. In August 2019, New York sued EPA, stating that EPA's issuance of the Certification of Completion of Remedial Action to GE was improper and in violation of federal law. The United States (on behalf of EPA) and GE filed motions to dismiss on November 20, 2019. These motions have not yet been ruled on by the court.

## UPCOMING MILESTONES:

- Upper Hudson (Monitoring River Recovery) - EPA continues to collect the data necessary to track the recovery of the Upper Hudson River. PCB concentrations in fish, sediment, and water continue to decrease. All data are being evaluated and shared with involved parties, including the public.
- Upper Hudson River (Floodplain) – GE, with EPA oversight, continues to conduct a remedial investigation and feasibility study (RI/FS) in the 6,000 acres of Upper Hudson River floodplain. As part of this investigation, EPA prioritizes floodplain assessments on parcels of land where community projects are planned. Additionally, as part of the floodplain project, EPA has evaluated human use areas along the river which may pose an unacceptable short-term risk. These areas are either covered with clean soil and vegetated or posted with signs depending on use. EPA/GE have addressed 65 such areas to date.
- Upper Hudson River (Properties Transfers) - EPA is in the process of transferring to New York State several properties acquired during the remedial action. We are also coordinating with local municipalities to convey the alternate water supply line used during the dredging project.
- Lower Hudson (Supplemental Studies) - EPA is also conducting supplemental studies in the Lower Hudson River (from Troy downstream to New York City). Currently the work is focused on analysis of existing data to better understand PCB contamination in that 160 mile portion of the River. Future work will include the collection of additional fish, sediment, and water samples. These supplemental studies will inform the need for an RI/FS. GE is legally responsible for its PCBs that migrated to the Lower Hudson River. Other parties also may be liable for PCBs and other contamination in the Lower Hudson River.
- Public Outreach - EPA continues to provide updates to several Senate and Congressional offices regarding ongoing activities of interest. These offices included Congressman Tonko, Congresswoman Stefanik, Congresswoman Maloney and Senators Gillibrand and Schumer. EPA also regularly meets with the Hudson River Community Advisory Group.

## BACKGROUND:

For an approximately 30-year period ending in the late 1970s, two General Electric Company (GE) capacitor plants in Fort Edward and Hudson Falls, New York, discharged an estimated 1.3 million pounds of polychlorinated-biphenyls (PCBs) into the Hudson River. In 1984, EPA placed 200 miles of the Hudson, between Hudson Falls and the Battery in New York City, on the Superfund National Priorities List.

In a 2002 Record of Decision (ROD), EPA called for the removal of approximately 2.65 million cubic yards of PCB-contaminated sediment in a 40-mile stretch of the Upper Hudson River between Fort Edward and Troy, New York. The design of the remedy also called for capping of certain areas of the river bottom after dredging. The remedy was intended to address the most highly contaminated areas identified in the Upper Hudson River through active remediation, and allow for natural recovery to reduce PCB levels in surface sediment over time throughout the rest of the River, thereby allowing PCB levels in fish to recover as well. The 2002 remedy projected that the process of natural recovery would take many decades after the completion of dredging, and the remedy included an extensive monitoring program to demonstrate that the expectations of the ROD were being met.

Between 2009 and 2015, GE removed PCB-contaminated sediments from the Upper Hudson River pursuant to a 2006 consent decree with the United States. GE completed dredging of the Upper Hudson in 2015 at a reported cost of \$1.7 billion. The action removed 2.7 million cubic yards of sediment that contained 310,000 lbs of PCBs. – twice the mass originally projected, and 72 percent of the total PCB mass in the Upper Hudson River. The project is one of the largest environmental dredging projects in the United States to date.

GE remains obligated under the consent decree to do long-term monitoring of water, sediments, and fish in the river. Caps installed as part of the remedy to isolate residual PCBs will be monitored and maintained by GE. Additionally, GE is currently monitoring and maintaining the re-planted habitat and capped areas constructed during the remedy. Habitat work will continue until the areas are successfully re-established.

KEY EXTERNAL STAKEHOLDERS:

- ☒ Congress
- ☐ Industry
- ☒ States
- ☐ Tribes
- ☒ Media
- ☒ Other Federal Agency
- ☒ NGO
- ☒ Local Governments
- ☐ Other

MOVING FORWARD:

EPA will continue with monitoring efforts in order to, among other things, ascertain statistically supported trends in fish contamination levels. It is generally accepted that it can take up to eight years or more of post-dredging fish tissue data to determine trends with a sufficient degree of statistical reliability. EPA also will continue to work with the state on educational efforts to alert anglers to existing fishing advisories. In addition, EPA will continue to work with GE on other aspects of the site, including evaluating the floodplain along the banks of the Hudson and supplemental studies in the Lower Hudson River.

LEAD OFFICE/REGION: REGION 2

OTHER KEY OFFICES/REGIONS: